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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/927,131	08/10/2001	Gowri Rajaram	UTL 00104	4248
32968	7590	10/07/2005	EXAMINER	
KYOCERA WIRELESS CORP. P.O. BOX 928289 SAN DIEGO, CA 92192-8289			CHOW, CHIH CHING	
			ART UNIT	PAPER NUMBER
			2192	
DATE MAILED: 10/07/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/927,131

Applicant(s)

RAJARAM ET AL.

Examiner

Chih-Ching Chow

Art Unit

2192

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 August 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-38.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

Chih-Ching Chow
Examiner
Art Unit: 2192

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Continuation of 11. does NOT place the application in condition for allowance because: The examiner has reconsidered the amendment filed on 08/05/2005, upon the applicant's request. Please see the following responses:

1. The amended drawings, dated 08/05/2005, FIG. 3 and 4 are accepted by the Examiner.
2. In regard to the item 1, on page 15 of REMARKS. The examiner has not suggested to amend independent claims 1, 19, 20 and 38 to 'a wireless telephone' in Section 10 of the Final Office Action. The examiner simply brought it up because in 4/22/05 Amendment, the applicant brought up an example of 'cellular phone', however, it's not even mentioned in any of the claims.
3. In regard to the item 2, on pages 15-16 of REMARKS, first three paragraphs. The applicant agrees that "a cellular telephone is a hand-held device, ...but is not a computer system configuration", actually, when addressing 'system software', 'run-time' engine, 'system data', 'receiving dynamic instruction sets' and 'installable memory module' ... etc., they are all considered as computer system configuration.
4. In regard to the rest of item 2 and item 3 (pages 16-21), the amendment to claims 1, 19, 20, and 38 (a wireless telephone), which is still read from the other art made of the record, Hansson (see first Office action, page 5). Hanson's disclosure teaches a method installing software to a wireless telephone, which has the same challenges of "much less memory available, much less information receiving bandwidth and more limited processing power". Both McGuire and Hanson are analogous arts, since they have the same fields of endeavor, both of their teachings trying to install/upgrade software to a wireless device; the combination of McGuire and Hanson teaches the features apply to the teachings which has been recited in the amended claims 1. -- the Wang and Allen-Bradley Company cases don't apply to this argument since Hanson's disclosure is for a wireless telephone, which also has limited memory size.



ANTONY NGUYEN-BA
PRIMARY EXAMINER